

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ANGEL C. CHAVEZ, OWNER; DBA
CHAVEZ SMOG CHECK**

117 W. 7th St.
Calexico, CA 92231

Case No. 79/16-13400

OAH No. 2017040895

Automotive Repair Dealer Registration ARD
253725,
Smog Check Station License No. RC 253725,
Lamp Station License No. LS 253725,
Brake Station License No. BS 253725,
Smog Check Inspector License Number EO
44373,
and
Smog Check Repair Technician License
Number EI 44373,
Lamp Adjuster License No. LA 44373,
Brake Adjuster License No. BA 44373;

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent ANGEL C. CHAVEZ DBA CHAVEZ SMOG CHECK.

This Decision shall become effective November 9, 2017.

DATED: 9/21/17



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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Attorney General of California
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Supervising Deputy Attorney General
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9 **BEFORE THE**
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

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14 **CHAVEZ SMOG CHECK**
117 W. 7th St.
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16 **Automotive Repair Dealer Registration**
ARD 253725,
17 **Smog Check Station License No. RC 253725,**
Lamp Station License No. LS 253725,
18 **Brake Station License No. BS 253725,**
Smog Check Inspector License Number EO
19 **44373, and**
Smog Check Repair Technician License
20 **Number EI 44373,**
Lamp Adjuster License No. LA 44373,
21 **Brake Adjuster License No. BA 44373;**

22 Respondent.
23

Case No. 79/16-13400

OAH No. 2017040895

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
26 entitled proceedings that the following matters are true:

27 PARTIES
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1 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
2 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
3 Xavier Becerra, Attorney General of the State of California, by Kevin W. Messer, Deputy
4 Attorney General.

5 2. Respondent Angel C. Chavez, Owner; dba Chavez Smog Check (Respondent) is
6 represented in this proceeding by attorney Mr. Michael B. Levin, Esq., whose address is 3727
7 Camino del Rio South, Suite 200, San Diego, CA, 92108.

8 3. On or about February 22, 2008, the Bureau issued Automotive Repair Dealer
9 Registration No. ARD 253725 to Respondent. The Automotive Repair Dealer Registration will
10 expire on December 31, 2017, unless renewed.

11 4. On or about March 25, 2008, the Bureau issued Smog Check Station License No. RC
12 253725 to Respondent. The Smog Check Station License will expire on December 31, 2017,
13 unless renewed.

14 5. On or about April 22, 2008, the Bureau issued Lamp Station License No. LS 253725,
15 class A and Brake Station License No. BS 253725, class C. These licenses will expire on
16 December 31, 2017, unless renewed.

17 6. In or about 2003, the Director issued Basic Area Technician License Number EB
18 44373 to Respondent. Respondent's basic area technician license was due to expire on July 31,
19 2013. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the
20 license was renewed, pursuant to Respondent's election, as Smog Check Inspector License
21 Number EO 44373 and Smog Check Repair Technician License Number EI 44373 ("technician
22 licenses"), effective June 20, 2013. Respondent's technician licenses will expire on July 10, 2017,
23 unless renewed.¹

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27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,
28 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

7. In 2005, the Bureau issued Lamp Adjuster License No. LA 44373, class A. In 1992, the Bureau issued Brake Adjuster License No. BA 44373, class C. These licenses will expire on July 31, 2017, unless renewed.

JURISDICTION

8. Accusation No. 79/16-13400 was filed before the Director of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 3, 2017. Respondent timely filed its Notice of Defense contesting the Accusation.

9. A copy of Accusation No. 79/16-13400 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

10. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/16-13400. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

11. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

12. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

13. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/16-13400.

19. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 253725, Smog Check Station License No. RC 253725, Lamp Station License No. LS 253725, Brake Station License No. BS 253725, Smog Check Inspector License Number EO 44373, Smog Check Repair Technician License Number EI 44373, Lamp Adjuster License No. LA 44373, class A, and Brake Adjuster License No. BA 44373, class C, issued to Respondent are all revoked. However, the revocation as to each is stayed and all licenses and Registration are placed on probation for five (5) years on the following terms and conditions.

1. **Obey All Laws.** During the period of probation, Respondent shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondent.

2. **Quarterly Reporting.** During the period of probation, Respondent shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

4. **Access to Examine Vehicles and Records.** Respondent shall provide BAR representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

5. **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of

1 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
2 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
3 and return, and of the dates of cessation and resumption of business in California. All provisions
4 of probation other than cost reimbursement requirements, restitution requirements, training
5 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of
6 time of 30 days or more in which Respondent is not residing or engaging in business within the
7 jurisdiction of California. All provisions of probation shall recommence on the effective date of
8 resumption of business in California. Any period of time of 30 days or more in which Respondent
9 is not residing or engaging in business within the jurisdiction of California shall not apply to the
10 reduction of this probationary period or to any period of actual suspension not previously
11 completed. Tolling is not available if business or work relevant to the probationary license or
12 registration is conducted or performed during the tolling period.

13 **6. Violation of Probation.** If Respondent violates or fails to comply with the terms and
14 conditions of probation in any respect, the Director, after giving notice and opportunity to be
15 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
16 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall
17 maintain jurisdiction, and the period of probation shall be extended until final resolution of the
18 matter.

19 **7. Maintain Valid License.** Respondent shall, at all times while on probation, maintain
20 a current and active registration and/or license(s) with BAR, including any period during which
21 suspension or probation is tolled. If Respondent's registration or license is expired at the time the
22 decision becomes effective, the registration or license must be renewed by Respondent within 30
23 days of that date. If Respondent's registration or license expires during a term of probation, by
24 operation of law or otherwise, then upon renewal Respondent's registration or license shall be
25 subject to any and all terms and conditions of probation not previously satisfied. Failure to
26 maintain a current and active registration and/or license during the period of probation shall also
27 constitute a violation of probation.

28 **8. Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$6,559.69

1 for the reasonable costs of the investigation and enforcement of case No. 79/16-13400. Payment
2 to the Bureau of the full amount of cost recovery shall be paid in equal monthly installments in
3 the first thirty-six (36) months of probation. Respondent shall make payment by check or money
4 order payable to the Bureau of Automotive Repair and shall indicate on the check or money order
5 that it is for cost recovery payment for case No. 79/16-13400. Failure to complete payment of
6 cost recovery within this time frame shall constitute a violation of probation which may subject
7 Respondent's license(s) and registration to outright revocation; however, the Director or the
8 Director's Bureau of Automotive Repair designee may elect to continue probation until such time
9 as reimbursement of the entire cost recovery amount has been made to the Bureau. Any order for
10 payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall
11 not terminate until full cost recovery payment has been made. BAR reserves the right to pursue
12 any other lawful measures in collecting on the costs ordered and past due, in addition to taking
13 action based upon the violation of probation.

14 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
15 affected registration and/or license(s) will be fully restored or issued without restriction, if
16 Respondent meets all current requirements for registration or licensure and has paid all
17 outstanding fees, monetary penalties, or cost recovery owed to BAR.


18 10. **License Surrender.** Following the effective date of a decision that orders a stay of
19 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
20 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
21 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
22 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
23 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
24 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
25 provided in the decision. Respondent may not petition the Director for reinstatement of the
26 surrendered registration and/or license(s), or apply for a new registration or license under the
27 jurisdiction of BAR at any time before the date of the originally scheduled completion of
28 probation. If Respondent applies to BAR for a registration or license at any time after that date,

1 Respondent must meet all current requirements for registration or licensure and pay all
2 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Mr. Michael B. Levin, Esq. I understand the stipulation and the
6 effect it will have on my Automotive Repair Dealer Registration, and above referenced licenses. I
7 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
8 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
9 Affairs.

10 DATED: 6/20/17


11 ANGEL C. CHAVEZ, OWNER; dba CHAVEZ
12 SMOG CHECK
Respondent

13 I have read and fully discussed with Respondent Angel C. Chavez, Owner; dba Chavez
14 Smog Check the terms and conditions and other matters contained in the above Stipulated
15 Settlement and Disciplinary Order. I approve its form and content.

16
17
18 DATED: 6/20/17


19 MR. MICHAEL B. LEVIN, ESQ
20 Attorney for Respondent
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Exhibit A

Accusation No. 79/16-13400

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2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN W. MESSER
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Attorneys for Complainant

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15 **117 W. 7th St.**
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A C C U S A T I O N

16 **Automotive Repair Dealer Registration**
ARD 253725,
17 **Smog Check Station License No. RC 253725,**
18 **Lamp Station License No. LS 253725,**
Brake Station License No. BS 253725;

19 **and**

20 **JOSE CARMELO PONCE BARRERA**
21 **1313 East 7th St., SPC 92**
Holtville, CA 92250

22 **Smog Check Inspector License No. EO**
23 **633756,**
24 **Brake Adjuster License No. BA 633756,**
Lamp Adjuster License No. LA 633756.

25 Respondents.

26
27 Complainant alleges:
28

1 **PARTIES**

2 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
3 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

4 2. On or about February 22, 2008, the Bureau issued Automotive Repair Dealer
5 Registration Number ARD 253725 to Chavez Smog Check; Angel C. Chavez (Respondent
6 Chavez). The Automotive Repair Dealer Registration will expire on December 31, 2017, unless
7 renewed.

8 3. On or about March 25, 2008, the Bureau issued Smog Check Station License
9 Number RC 253725 to Respondent Chavez. The Smog Check Station License will expire on
10 December 31, 2017, unless renewed.

11 4. On or about April 22, 2008, the Bureau issued Lamp Station License No. LS 253725,
12 class A and Brake Station License No. BS 253725, class C. These licenses will expire on
13 December 31, 2017, unless renewed.

14 5. On or about October 26, 2011, the Bureau issued Advanced Emission Specialist
15 Technician License No. EA 633756 to Jose Carmelo Ponce Barrera (Respondent Barrera). It was
16 due to expire on June 30, 2013, however it was cancelled on June 28, 2013. Pursuant to
17 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
18 renewed, pursuant to Respondent Barrera's election, as Smog Check Inspector License No. EO
19 633756, effective June 28, 2013.¹ This license will expire on June 30, 2017, unless renewed.

20 6. On July 24, 2013, the Bureau issued Brake Adjuster License No. BA 633756, class C,
21 to Respondent Barrera. On July 22, 2013, the Bureau issued Lamp Adjuster License No. LA
22 633756, class A, to Respondent Barrera. These licenses will expire on June 30, 2017, unless
23 renewed.

24 **JURISDICTION**

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 7. This Accusation is brought before the Director of the Department of Consumer
2 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
3 All references are to the business code unless otherwise stated.

4 8. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
5 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed
6 with a disciplinary action during the period within which the license may be renewed, restored,
7 reissued or reinstated.

8 9. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
9 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
10 proceeding against an automotive repair dealer or to render a decision invalidating a registration
11 temporarily or permanently.

12 10. Section 9884.20 of the Code states:

13 “All accusations against automotive repair dealers shall be filed within three years after the
14 performance of the act or omission alleged as the ground for disciplinary action, except that with
15 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action,
16 the accusation may be filed within two years after the discovery, by the bureau, of the alleged
17 facts constituting the fraud or misrepresentation.”

18 11. Section 9884.22 of the Code states:

19 “(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny
20 at any time any registration required by this article on any of the grounds for disciplinary action
21 provided in this article. The proceedings under this article shall be conducted in accordance with
22 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
23 Code, and the director shall have all the powers granted therein.

24 “...”

25 12. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
26 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
27 the Motor Vehicle Inspection Program.

28 13. Section 44072.4 of the Health and Safety Code states:

“The director may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

“(a) Imposing probation upon terms and conditions to be set forth by the director.

“(b) Suspending the license.

“(c) Revoking the license.”

14. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

15. Section 44072.7 of the Health and Safety Code states:

"All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section."

16. Section 44072.8 of the Health and Safety Code states:

"When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director."

17. California Code of Regulations, title 16, section 3340.28, subdivision (e) states that “[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.”

STATUTORY PROVISIONS

18. Section 22 of the Code states:

"(a) 'Board' as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include

1 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
2 'agency.'

3 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
4 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
5 (commencing with Section 473), is taken over by the department, that program shall be
6 designated as a 'bureau.'"

7 19. Section 23.7 of the Code states:

8 "Unless otherwise expressly provided, license means license, certificate, registration, or
9 other means to engage in a business or profession regulated by this code or referred to in Section
10 1000 or 3600."

11 20. Section 9884.7 of the Code states:

12 "(a) The director, where the automotive repair dealer cannot show there was a bona fide
13 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair
14 dealer for any of the following acts or omissions related to the conduct of the business of the
15 automotive repair dealer, which are done by the automotive repair dealer or any automotive
16 technician, employee, partner, officer, or member of the automotive repair dealer.

17 "(1) Making or authorizing in any manner or by any means whatever any statement written
18 or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable
19 care should be known, to be untrue or misleading.

20 "...

21 "(4) Any other conduct that constitutes fraud.

22 "...

23 "(6) Failure in any material respect to comply with the provisions of this chapter or
24 regulations adopted pursuant to it.

25 "...

26 "(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
27 probation the registration for all places of business operated in this state by an automotive repair
28

1 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
2 and willful violations of this chapter, or regulations adopted pursuant to it."

3 21. Section 44072.2 of the Health and Safety Code states:

4 "The director may suspend, revoke, or take other disciplinary action against a license as
5 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the
6 following:

7 "(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health
8 and Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the
9 licensed activities.

10 "...

11 "(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

12 "..."

13 22. Section 44072.10 of the Health and Safety Code states:

14 "(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee,
15 pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog
16 check station or technician's license issued under this chapter, for a period not to exceed 60 days,
17 if the department determines that the licensee's conduct would endanger the public health, safety,
18 or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable
19 evidence of any of the following:

20 "(1) Fraud.

21 "(2) Tampering.

22 "(3) Intentional or willful violation of this chapter or any regulation, standard, or procedure
23 of the department implementing this chapter.

24 "(4) A pattern or regular practice of violating this chapter or any regulation, standard, or
25 procedure of the department implementing this chapter.

26 "...
27
28

1 “(c) The department shall revoke the license of any smog check technician or station
2 licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of
3 vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

4 “(1) Clean piping, as defined by the department.

5 “(2) Tampering with a vehicle emission control system or test analyzer system.

6 “(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or
7 falsely fail an inspection.

8 “(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure
9 of the department implementing this chapter.”

10 REGULATORY PROVISIONS

11 23. California Code of Regulations, title 16, section 3395.4, states:

12 “In reaching a decision on a disciplinary action under the Administrative Procedure Act
13 (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of
14 Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary
15 guidelines entitled ‘Guidelines for Disciplinary Penalties and Terms of Probation’ [May, 1997]
16 which are hereby incorporated by reference. The ‘Guidelines for Disciplinary Penalties and
17 Terms of Probation’ are advisory. Deviation from these guidelines and orders, including the
18 standard terms of probation, is appropriate where the Bureau of Automotive Repair in its sole
19 discretion determines that the facts of the particular case warrant such deviation -for example: the
20 presence of mitigating factors; the age of the case; evidentiary problems.”

21 COSTS

22 24. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

28 ///

CLEAN PLUGGING

25. The On-Board Diagnostics – Generation II (OBD II) communication protocol describes the specified communication “language” used by the OBD II system electronic control unit to communicate to scan tools and other devices such as the On-Board Diagnostic Inspection System (OIS). The communication protocol is programmed into the OBD II system electronic control unit during manufacture and does not change.

26. Parameter Identifications (PID) are data points reported by the OBD II system electronic control unit to the scan tool or OIS. Examples of PIDs are engine speed (RPM), vehicle speed, engine temperature, and other input and output values utilized by the OBD II system electronic control unit. The PID count is the number of data points reported by the OBD II system electronic control unit and is programmed during manufacture.

27. The Vehicle Identification Number (VIN) that is physically present on all vehicles is also required to be programmed into the vehicle’s OBD II on 2005 and newer vehicles, and on many occasions was programmed into the OBD II system electronic control unit in earlier model-years. This electronically programmed VIN, also known as the “eVIN,” is captured by BAR during a Smog Check, and should match the physical VIN on the vehicle.

28. During a Bureau representative’s review of Respondents’ certified test results in the Vehicle Information Database (VID) for inspections purportedly performed on the OIS between from May 2016 to August 2016, eleven (11) vehicles identified below had deviations in one or more of the following: eVIN, incorrect vehicle communication protocol, and/or incorrect PID count. This indicates that the vehicles receiving smog certificates were fraudulently tested during the smog check inspection by a method known as Clean Plugging.² A detailed explanation of each fraudulent smog check is as follows:

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² To “clean plug” a vehicle, the technician uses another vehicle’s properly functioning OBD II system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog certificates of compliance to vehicles that are not in smog compliance or not present during the certified test.

1 **a. Clean Plug 1**

2 OIS Test Data indicates that on May 23, 2016, between hours 1635 and 1639, a 2001
3 Chevrolet Silverado K1500 was tested and a smog certificate was issued under licensed Smog
4 Check Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2001 Chevrolet
5 Silverado K1500 showed an eVIN that was different than the reported VIN, a communication
6 protocol of JVPW1850, and a PID count of 22. Based on comparative OIS Test Data for similar
7 2001 Chevrolet Silverado K1500 vehicles, the following OIS Test Data was expected: the same
8 eVIN and VIN, communication protocol JVPW, and a PID count of 23.

9 Bureau review of the OIS Test Data revealed that although the reported eVIN did not match
10 the VIN of the test vehicle, it did match the VIN of a 2004 Chevrolet Suburban K1500 that
11 happened to be certified at Chavez Smog Check on the same day, just moments after the test in
12 question (between 1639 and 1641 hours) by the same inspector. This finding suggests
13 Respondent Barrera used the 2004 Chevrolet Suburban K1500 to clean plug the 2001 Chevrolet
14 Silverado K1500.

15 The discrepancies noted above prove the OIS Data Acquisition Device (DAD) was not
16 connected to the 2001 Chevrolet Silverado K1500 being certified, causing the issuance of a
17 fraudulent Smog Certificate of Compliance.

18 **b. Clean Plug #2**

19 OIS Test Data indicates that on June 29, 2016, between hours 1212 and 1218, a 2002
20 Volkswagen Jetta GLS was tested and a smog certificate was issued under licensed Smog Check
21 Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2002 Volkswagen Jetta
22 GLS showed an eVIN that was different than the reported VIN, a communication protocol of
23 ICAN11bt500, and a PID count of 38. Based on comparative OIS Test Data for similar 2002
24 Volkswagen Jetta GLS vehicles, the following OIS Test Data was expected: the eVIN should
25 match the VIN when reported, a communication protocol of I914, and a PID count of 18 or 18/6.

26 The eVIN reported during the June 29, 2016 test (which differed from the actual VIN)
27 was matched to a 2012 Chrysler 200 Touring that was certified at Chavez Smog Check on the
28 same day (June 29, 2016) between 1209 and 1212 hours by Respondent Barrera, immediately

1 before the test in question. This finding suggests Respondent used the 2012 Chrysler 200
2 Touring to clean plug the 2002 Volkswagen Jetta GLS.

3 In addition, Bureau review of the OIS Test Data for the vehicle in question revealed that
4 on August 3, 2015, between 1007 and 1018 hours, a prior OIS test was performed at Chavez
5 Smog Check on the same 2002 Volkswagen Jetta GLS and the vehicle failed inspection. The OIS
6 Test Data on that date showed the eVIN was properly reported and matched the VIN, the
7 communication protocol was I9140808, and the PID count was 18/6. Further review of OIS Test
8 Data revealed that on December 10, 2015, between 1417 and 1420 hours, a third test was
9 performed at another smog station on the same 2002 Volkswagen Jetta GLS. The vehicle also
10 failed that inspection. The OIS Test Data from that test showed the eVIN was reported and
11 matched the VIN, the communication protocol was I9140808, and the PID count was 18/6.

12 The discrepancies noted above prove the OIS DAD was not connected to the 2002
13 Volkswagen Jetta GLS being certified, causing the issuance of a fraudulent Smog Certificate of
14 Compliance.

15 **c. Clean Plug #3**

16 OIS Test Data indicates that on June 30, 2016, between hours 0907 and 0911, a 2012
17 Volkswagen Jetta Base/S was tested and a smog certificate was issued under licensed Smog
18 Check Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2012 Volkswagen
19 Jetta Base/S showed an eVIN that was different than the reported VIN, a communication
20 protocol of ICAN11bt500, and a PID count of 38/14. Based on comparative OIS Test Data for
21 similar 2012 Volkswagen Jetta Base/S vehicles, the following OIS Test Data was expected: the
22 eVIN should match the VIN when reported, a communication protocol of ICAN11bt5, and a PID
23 count of 37/14 or 38/14.

24 Bureau review of OIS Test Data revealed that on March 23, 2015, between 0930 and 0937
25 hours, a prior OIS test was performed at another station on the same 2012 Volkswagen Jetta
26 Base/S and the vehicle had passed the inspection. The Test Data from that test showed the eVIN
27 was reported and matched the VIN, a communication protocol of ICAN11bt500, and a PID count
28 of 38/14.

1 Further Bureau review of the OIS Test Data revealed that although the reported eVIN did
2 not match the VIN of the test vehicle on June 30, 2016, it did match the VIN of a 2009
3 Volkswagen Rabbit that was certified at Chavez Smog Check on July 1, 2016, between 1102 and
4 1104 hours, just a day after the test vehicle was tested. This finding suggests Respondent Barrera
5 used the 2009 Volkswagen Rabbit to clean plug the 2012 Volkswagen Jetta Base/S the day prior.

6 The discrepancies noted above prove the OIS DAD was not connected to the 2012
7 Volkswagen Jetta Base/S being certified, causing the issuance of a fraudulent Smog Certificate of
8 Compliance.

9 **d. Clean Plug #4**

10 OIS Test Data indicates that on July 1, 2016, between hours 1512 and 1514, a 2001
11 Lincoln Town Car Signature was tested and a smog certificate was issued under licensed Smog
12 Check Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2001 Lincoln
13 Town Car Signature showed an eVIN that was different than the reported VIN, a communication
14 protocol of JPWM1850, and a PID count of 20/18. Based on comparative OIS Test Data for
15 similar 2001 Lincoln Town Car Signature vehicles, the following OIS Test Data was expected:
16 the eVIN should match the VIN when reported, a communication protocol of JPWM, and a PID
17 count of 20.

18 Bureau review of OIS test data revealed that although the reported eVIN did not match the
19 VIN of the test vehicle on July 1, 2016, it did match the VIN of a 2000 Ford F150 that was
20 certified at Chavez Smog Check on July 1, 2016, between 1509 and 1511 hours, just moments
21 before the 2001 Lincoln Town Car Signature was tested. This finding suggests Respondent
22 Barrera used the 2000 Ford F150 to clean plug the 2001 Lincoln Town Car Signature.

23 The discrepancies noted above prove the OIS DAD was not connected to the 2001
24 Lincoln Town Car Signature being certified, causing the issuance of a fraudulent Smog
25 Certificate of Compliance.

26 **e. Clean Plug #5**

27 OIS Test Data indicates that on July 22, 2016, between hours 1512 and 1517, a 2008
28 Toyota FJ Cruiser was tested and a smog certificate was issued under licensed Smog Check

1 Inspector #EO 633756, Respondent Barrera. The OIS Test Data for the 2008 Toyota FJ Cruiser
2 showed an eVIN that was different than the reported VIN, a communication protocol of
3 JVPW1850, and a PID count of 18. Based on comparative OIS Test Data for similar 2008 Toyota
4 FJ Cruiser vehicles, the following OIS Test Data was expected: the eVIN should match the VIN
5 when reported, a communication protocol of ICAN11bt5, and a PID count of 46.

6 Bureau review of OIS test data revealed that although the reported eVIN did not match the
7 VIN of the test vehicle on July 22, 2016, it did match the VIN of a 2004 Dodge Neon SXT that
8 was certified at Chavez Smog Check on July 22, 2016, between 1518 and 1520 hours, just
9 moments after the 2008 Toyota FJ Cruiser was tested. This finding suggests Respondent Barrera
10 used the 2004 Dodge Neon SXT to clean plug the 2008 Toyota FJ Cruiser.

11 The discrepancies noted above prove the OIS DAD was not connected to the 2008 Toyota
12 FJ Cruiser being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

13 **f. Clean Plug #6**

14 OIS Test Data indicates that on July 28, 2016, between hours 1558 and 1603, a 2008
15 Saturn Astra XR was tested and a smog certificate was issued under licensed Smog Check
16 Inspector #EO 633756, Respondent Barrera. The OIS Test Data for the 2008 Saturn Astra XR
17 showed an eVIN that was different than the reported VIN, a communication protocol of
18 ICAN11bt500, and a PID count of 47. Based on comparative OIS Test Data for similar 2008
19 Saturn Astra XR vehicles, the following OIS Test Data was expected: the eVIN should match the
20 VIN when reported, a communication protocol of ICAN11bt5, and a PID count of 41 or 41/4.

21 Bureau review of OIS test data revealed that although the reported eVIN did not match the
22 VIN of the test vehicle on July 28, 2016, it did match the VIN of a 2005 Ford Mustang that was
23 certified at Chavez Smog Check on July 28, 2016, between 1603 and 1606 hours, just moments
24 after the 2008 Saturn Astra XR was tested. This finding suggests Respondent Barrera used the
25 2005 Ford Mustang to clean plug the 2008 Saturn Astra XR.

26 The discrepancies noted above prove the OIS DAD was not connected to the 2008 Saturn
27 Astra XR being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

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1 **g. Clean Plug #7**

2 OIS Test data indicates that on July 29, 2016, between hours 0824 and 0826, a 2009
3 Hyundai Sonata GLS was tested and a smog certificate was issued under licensed Smog Check
4 Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2009 Hyundai Sonata
5 GLS showed an eVIN that was different than the reported VIN, a communication protocol of
6 ICAN11bt500, and a PID count of 39/17. Based on comparative OIS Test Data for similar 2009
7 Sonata GLS Hyundai vehicles, the following OIS Test Data was expected: the eVIN should
8 match the VIN when reported, a communication protocol of ICAN11bt5, and a PID count of 42,
9 42/1, or 42/4.

10 Bureau review of OIS test data revealed that although the reported eVIN did not match the
11 VIN of the test vehicle on July 29, 2016, it did match the VIN of a 2008 Mazda Mazda 3S that
12 was certified at another station located in Calexico on October 9, 2015. This finding suggests
13 Respondent Barrera used the 2008 Mazda Mazda 3S to clean plug the 2009 Hyundai Sonata GLS.

14 The discrepancies noted above prove the OIS DAD was not connected to the 2009 Hyundai
15 Sonata GLS being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

16 **h. Clean Plug #8**

17 The OIS Test Data indicates that on August 1, 2016, between hours 0813 and 0817, a
18 2006 Chrysler 300C was tested and a smog certificate was issued under licensed Smog Check
19 Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2006 Chrysler 300C
20 showed an eVIN that was different than the reported VIN, a communication protocol of
21 ICAN11bt500, and a PID count of 39/17. Based on comparative OIS Test Data for similar 2006
22 Chrysler 300C vehicles, the following OIS Test Data was expected: the eVIN should match the
23 VIN when reported, a communication protocol of ICAN11bt5, and a PID count of 41, 43/12, or
24 43/6.

25 Bureau review of OIS test data revealed that although the reported eVIN did not match the
26 VIN of the test vehicle on August 1, 2016, it did match the VIN of a 2008 Mazda Mazda 3S
27 (same vehicle as in Clean Plug #7) that was certified at another station located in Calexico on
28

1 October 9, 2015. This finding suggests Respondent Barrera used the 2008 Mazda Mazda 3S to
2 clean plug the 2006 Chrysler 300C.

3 The discrepancies noted above prove the OIS DAD was not connected to the 2006 Chrysler
4 300C being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

5 **i. Clean Plug #9**

6 The OIS Test Data indicates that on August 4, 2016, between hours 1440 and 1445, a
7 2007 Chrysler 300 Touring was tested and a smog certificate was issued under licensed Smog
8 Check Inspector #EO 633756, Respondent Barerra. The OIS Test Data for the 2007 Chrysler 300
9 Touring showed an eVIN that was different than the reported VIN, a communication protocol of
10 JPWM1850, and a PID count of 19. Based on comparative OIS Test Data for similar 2007
11 Chrysler 300 Touring vehicles, the following OIS Test Data was expected: the eVIN should
12 match the VIN when reported, a communication protocol of ICAN11bt5, and a PID count of 43,
13 or 43/12.

14 Bureau review of OIS test data revealed that although the reported eVIN did not match the
15 VIN of the test vehicle on August 4, 2016, it did match the VIN of a 2001 Ford Ranger that was
16 certified at Chavez Smog Check on August 4, 2016, between 1447 and 1450 hours, just moments
17 after the 2007 Chrysler 300 Touring was tested. This finding suggests Respondent Barrera used
18 the 2001 Ford Ranger to clean plug the 2007 Chrysler 300 Touring.

19 The discrepancies noted above prove the OIS DAD was not connected to the 2007 Chrysler
20 300 Touring being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

21 **j. Field Visit**

22 On August 26, 2016, a Bureau representative made a field visit to Chavez Smog Check to
23 perform a Station compliance inspection and to inspect records from May 20, 2016, to August 20,
24 2016. None of the records for the above mentioned nine (9) clean plugged vehicles were present
25 in the date range of records requested. The representative made copies of seven (7) VIRs that
26 were not signed along with their related invoices. On August 29, 2016, the representative
27 conducted another review of Smog Check data from the VID consisting of data transmitted from
28 Chavez Smog Check's Smog Check OIS System for August 26, 2016. The representative's

1 review revealed Respondent Barrera illegally certified two (2) additional vehicles after the
2 representative left the station, resulting in the issuance of an additional two (2) fraudulent
3 Certificates of Compliance, using the "Clean Plugging" method.

4 **k. Clean Plug #10**

5 The OIS Test Data indicates that on August 26, 2016, between hours 1408 and 1411, a
6 2010 Audi A4 2.0T Premium Plus was tested and a smog certificate was issued under licensed
7 Smog Check Inspector #EO 633756, Respondent Barrera. The OIS Test Data for the 2010 Audi
8 A4 2.0T Premium Plus showed an eVIN that was different than the reported VIN, a
9 communication protocol of ICAN11bt500, and a PID count of 40. Based on comparative OIS
10 Test Data for similar 2010 Audi A4 2.0T Premium Plus vehicles, the following OIS Test Data
11 was expected: the eVIN should match the VIN when reported, a communication protocol of
12 ICAN11bt5, and a PID count of 37/10 or 37/14.

13 Bureau review of OIS test data revealed that although the reported eVIN did not match the
14 VIN of the test vehicle on August 26, 2016, it did match the VIN of a 2011 Nissan Altima 2.5/2.5
15 S that was certified at Chavez Smog Check on August 19, 2016. This finding suggests
16 Respondent Barrera used the 2011 Nissan Altima 2.5/2.5 S to clean plug the 2010 Audi A4 2.0T
17 Premium Plus.

18 The discrepancies noted above prove the OIS DAD was not connected to the 2010 Audi A4
19 2.0T Premium Plus being certified, causing the issuance of a fraudulent Smog Certificate of
20 Compliance.

21 **l. Clean Plug #11**

22 OIS Test Data indicates that on August 26, 2016, between hours 1412 and 1414, a 2003
23 Acura RSX Type-S was tested and a smog certificate was issued under licensed Smog Check
24 Inspector #EO 633756, Respondent Barrera. The OIS Test Data for the 2003 Acura RSX Type-S
25 showed an eVIN that was different than the reported VIN, a communication protocol of
26 ICAN11bt500, and a PID count of 40. Based on comparative OIS Test Data for similar 2003
27 Acura RSX Type-S vehicles, the following OIS Test Data was expected: no eVIN should be
28 reported, a communication protocol of I914, and a PID count of 15, 16, or 17.

1 Bureau review revealed that on February 25, 2015, between 1635 and 1639 hours, a prior
2 OIS test was performed at another station on the same 2003 Acura RSX Type-S. The test data
3 from that test showed the eVIN was not reported, a communication protocol I9140808, and a PID
4 count of 16.

5 Additional Bureau review of OIS test data revealed that although the reported eVIN did
6 not match the VIN of the test vehicle on August 26, 2016, it did match the VIN of a 2011 Nissan
7 Altima 2.5/2.5 S (same vehicle as in Clean Plug #10) that was certified at Chavez Smog Check on
8 August 19, 2016. This finding suggests Respondent Barrera used the 2011 Nissan Altima 2.5/2.5
9 S to clean plug the 2003 Acura RSX Type-S.

10 The discrepancies noted above prove the OIS DAD was not connected to the 2003 Acura
11 RSX Type-S being certified, causing the issuance of a fraudulent Smog Certificate of
12 Compliance.

13 29. At all times alleged in this Accusation, Respondent Barrera was acting in the course
14 and within the scope of a technician, employee, partner, officer, or member of Chavez Smog
15 Check.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statement)**

18 30. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in the foregoing paragraphs.

20 31. Respondent Chavez's Registration is subject to disciplinary action under section
21 9884.7, subdivision (a)(1), in that Chavez Smog Check made or authorized statements which
22 Chavez Smog Check knew or in the exercise of reasonable care should have known to be untrue
23 or misleading.

24 32. Respondent Chavez certified that the vehicles listed in paragraph 28, subparagraphs a.
25 through l., had passed inspection and were in compliance with all applicable laws and regulations,
26 when in fact and in truth, Chavez Smog Check inspected the vehicles using the clean plugging
27 method to issue fraudulent certificates of compliance.

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1 3340.42 of the Regulations and failed to ensure that the vehicles had all the required emission
2 control equipment and devices installed and functioning correctly.

3 b. Section 3340.41, subdivision (c): knowingly entered into the Emissions Inspection
4 System false information about the vehicles listed in paragraph 28, subparagraphs a. through l.,
5 providing results for smog inspections which were not actually performed.

6 c. Section 3340.42: failed to conduct the required smog tests on the vehicles listed in
7 paragraph 28, subparagraphs a. through l., in accordance with the Bureau's specifications.

8 d. Section 3340.45: failed to conduct the required smog tests on the vehicles listed in
9 paragraph 28, subparagraphs a. through l., in accordance with the Smog Check Manual, dated
10 2013.

11 FOURTH CAUSE FOR DISCIPLINE

12 (Dishonesty, Fraud, or Deceit)

13 37. Complainant re-alleges and incorporates by reference the allegations set forth above
14 in the foregoing paragraphs.

15 38. Respondent Chavez's Registration is subject to disciplinary action under Code section
16 9884.7, subdivision (a)(4) and Respondent Chavez's Smog Check Station License is subject to
17 disciplinary action under Health and Safety Code sections 44072.10, subdivision (c) and 44072.2,
18 subdivision (d), in that Chavez Smog Check committed dishonest, fraudulent, or deceitful acts
19 whereby another is injured by issuing a smog certificate of compliance for the vehicles listed in
20 paragraph 28, subparagraphs a. through l., without performing bona fide inspections of the
21 emission control devices and systems on the vehicles, thereby depriving the People of the State of
22 California of the protection afforded by the Motor Vehicle Inspection Program.

23 FIFTH CAUSE FOR DISCIPLINE

24 (Violation of Motor Vehicle Inspection Program)

25 39. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in the foregoing paragraphs.

1 40. Respondent Barerra's Smog Check Inspector License is subject to disciplinary action
2 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,
3 subdivision (a), in that Barerra failed to comply with the following sections of that Code:

4 a. **Section 44012**: failed to perform the tests of the emission control systems and
5 devices on the vehicles listed in paragraph 28, subparagraphs a. through l., in accordance with
6 procedures prescribed by the Department.

7 b. **Section 44015, subd. (a) and (b)**: issued a certificate of compliance for the vehicles
8 listed in paragraph 28, subparagraphs a. through l., without properly testing and inspecting them
9 to determine if they were in compliance with Health & Safety Code section 44012.

10 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
11 equipment, performance, or conduct by failing to properly perform a smog inspection on the
12 vehicles listed in paragraph 28, subparagraphs a. through l., or certifying that such tests had been
13 performed, when in fact they were never performed.

14 d. **Section 44032**: failed to test emission control devices and systems in accordance
15 with Section 44012 on the vehicles listed in paragraph 28, subparagraphs a. through l.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

18 41. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in the foregoing paragraphs.

20 42. Respondent Barerra's Smog Check Inspector License is subject to disciplinary action
21 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,
22 subdivision (a) in that Barerra failed to comply with the following sections of Title 16, California
23 Code of Regulations:

24 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles listed in
25 paragraph 28, subparagraphs a. through l., in accordance with the procedures specified in section
26 3340.42 of the Regulations and failed to ensure that the vehicles listed in paragraph 28,
27 subparagraphs a. through l., had all the required emission control equipment and devices installed
28 and functioning correctly.

b. Section 3340.41, subdivision (c): knowingly entered into the Emissions Inspection System false information about the vehicles listed in paragraph 28, subparagraphs a. through l., providing results for smog inspections which were not actually performed.

c. **Section 3340.42**: failed to conduct the required smog tests on the vehicles listed in paragraph 28, subparagraphs a. through l., in accordance with the Bureau's specifications.

d. **Section 3340.45**: failed to conduct the required smog tests on the vehicles listed in paragraph 28, subparagraphs a. through l., in accordance with the Smog Check Manual, dated 2013.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

43. Complainant re-alleges and incorporates by reference the allegations set forth above in the foregoing paragraphs.

44. Respondent Barerra's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d), in that Barerra committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing a smog certificate of compliance for the vehicles listed in paragraph 28, subparagraphs a. through l., without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

DISCIPLINARY CONSIDERATIONS

45. On April 8, 2010, Respondent was issued Citation C2010-1061 by the Bureau for violation of Section 44012(f) of the Health and Safety Code and Section 3340.35(c) of title 16 of the California Code of Regulations. Respondent Chavez was assessed a civil penalty of \$500 for issuance of a Certificate of Compliance to a Bureau undercover vehicle with a non-functional Exhaust Gas Recirculation (EGR) system.

46. On April 8, 2010, Respondent Chavez was issued M2010-1062 by the Bureau for violation of Section 44032 of the Health and Safety Code and Section 3340.30(a) of title 16 of the California Code of Regulations. Respondent Chavez was directed to complete an 8-hour training

1 for issuance of a Certificate of Compliance to a Bureau undercover vehicle with a non-functional
2 Exhaust Gas Recirculation (EGR) system.

3 **OTHER MATTERS**

4 47. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or
5 place on probation the registration for all places of business operated in this State by Respondent
6 Chavez upon a finding that Respondent Chavez has, or is, engaged in a course of repeated and
7 willful violations of the laws and regulations pertaining to an automotive repair dealer.

8 48. Under Health & Safety Code section 44072.8, if Respondent Chavez's Smog Check
9 Station License is revoked or suspended, the Director may likewise revoke or suspend any
10 additional license issued under Chapter 5 of the Health and Safety Code in the name of
11 Respondent Chavez.

12 49. Under Health and Safety Code section 44072.8, if Respondent Barerra's Smog Check
13 Inspector License is revoked or suspended, any additional license issued under the Motor Vehicle
14 Inspection Program in the name of Barerra may be likewise revoked or suspended by the
15 Director.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Director of Consumer Affairs issue a decision:

19 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration
20 No. ARD 253725, issued to Respondent Chavez.

21 2. Revoking, suspending or placing on probation Smog Check Station License No. RC
22 253725, issued to Respondent Chavez.

23 3. Revoking, suspending or placing on probation Lamp Station License No. 253725.

24 4. Revoking, suspending or placing on probation Brake Station License No. 253725.

25 5. Revoking, suspending or placing on probation any additional license issued under
26 Chapter 5 of the Health and Safety Code in the name of Respondent Chavez.

27 6. Revoking, suspending or placing on probation the registration for all places of
28 business operated in this State in the name of Respondent Chavez.

- 1 7. Revoking, suspending or placing on probation Smog Check Inspector No. EO
2 633756, issued to Respondent Barerra.
- 3 8. Revoking, suspending or placing on probation Brake Adjuster License No. BA
4 633756, issued to Respondent Barrera;
- 5 9. Revoking, suspending or placing on probation Lamp Adjuster License No. LA
6 633756, issued to Respondent Barrera;
- 7 10. Revoking, suspending or placing on probation any additional license issued under
8 Chapter 5 of the Health and Safety Code in the name of Respondent Barerra;
- 9 11. Ordering Respondents Chavez and Barrera to pay the Bureau of Automotive Repair
10 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3; and,
- 12 12. Taking such other and further action as deemed necessary and proper.

13
14
15 DATED:

March 29, 2017



PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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